

Message Text

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ACTION L-03

INFO OCT-01 AF-10 ARA-10 NEA-10 IO-13 ISO-00 EA-07
EUR-12 EB-07 TRSE-00 OMB-01 PM-04 NSC-05 SP-02
SS-15 PRS-01 CIAE-00 INR-07 NSAE-00 IGA-02 COME-00
DODE-00 H-01 STR-04 /115 W
-----103741 081415Z /53

P R 081250Z JUL 77
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC PRIORITY 2642
USMISSION GENEVA
INFO USMISSION USUN NEW YORK
AMEMBASSY ALGIERS
AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY FREETOWN
AMEMBASSY ISLAMABAD
AMEMBASSY KINSHASA
AMEMBASSY LAGOS
AMEMBASSY MEXICO
AMEMBASSY TEHRAN
AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO

C O N F I D E N T I A L SECTION 1 OF 2 BRASILIA 5630

DEPT PASS TO ALL OECD CAPITALS

E.O. 11652: GDS
TAGS: ECOSOC, EINV, EGEN, UN
SUBJ: AGREEMENT ON ILLICIT PAYMENTS: RESULTS OF HANSELL DEMARCHE
TO GOB

REF: A. STATE 141773 B. GENEVA 5277 (NOTAL)
C. GENEVA 5400 (NOTAL)

1. SUMMARY: LEGAL ADVISER HANSELL'S VISIT TO BRASILIA
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ACHIEVED ITS ESSENTIAL OBJECTIVES. FOREIGN MINISTER
SILVEIRA, IN DEPARTURE FROM BRAZIL'S 1976 STANCE,
PLEDGED GOB COOPERATION AND SUPPORT FOR ECOSOC
RESOLUTION CALLING FOR DIPLOMATIC CONFERENCE ON
ILLICIT PAYMENTS TREATY. SILVEIRA QUESTIONED
FEASIBILITY OF CONFERENCE IN 1978, AND IN LATER
WORKING SESSION FONMIN OFFICIALS OFFERED

SUGGESTIONS FOR NEW LANGUAGE IN CERTAIN SECTIONS OF US DRAFT RESOLUTION. BRAZILIANS ALSO AS QUID PRO QUO, ASKED FOR SUPPORT FOR CONFERENCE OF PLENIPOTENTIARIES ON TRANSFER OF TECHNOLOGY, INDICATING THIS WOULD AFFECT THEIR SUPPORT FOR WORK ON ILLICIT PAYMENTS AGREEMENT. FOLLOWING IS UNCLEARED ACOOUNT OF LEGAL ADVISER HANSEL'S DISCUSSIONS. END SUMMARY.

2. ACCOMPANIED BY CHARGE AND EMBOFFS, LEGAL ADVISER HANSELL CALLED ON FONMIN ANTONIO F. AZEREDO DA SILVEIRA MORNING OF JULY 4. ALSO PRESENT WERE CHIEFS OF ECONOMIC, INTERNATIONAL ORGANIZATIONS, AND REGIONAL AMERICAN ORGANIZATIONS DEPTS., FONMIN'S SPECIAL ADVISER FOR BILATERAL AFFAIRS AND CHIEF OF TRADE POLICY DIVISION. REFERRING TO THE GREAT INTEREST AND URGENCY PRESIDENT CARTER ATTACHES TO THE PROBLEM OF ILLICIT PAYMENTS AND SILVEIRA'S RECENT DISCUSSION WITH THE SECRETARY AT GRENADA, LEGAL ADVISER SOLICITED BRAZILIAN SUPPORT FOR THE US DRAFT RESOLUTION (REFTEL A). SILVEIRA RESPONDED BY AFFIRMING BRAZIL'S OPPOSITION TO ILLICIT PAYMENTS AND THEN SPENT SOME TIME EXPOUNDING ON THE BASIC AFFINITIES BETWEEN THE US AND BRAZIL IN AN UNCHARACTERISTICALLY ACCOMMODATING FASHION (SEE SEPTTEL NOTAL). AFTER LEGAL ADVISER POSED QUESTION MORE DIRECTLY, SILVEIRA STATED CONFIDENTIAL

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THAT BRAZIL WAS QUITE PREPARED TO SUPPORT THE IDEA OF A DIPLOMATIC CONFERENCE BUT WITHIN THE FRAMEWORK OF BRAZILIAN INTERNAL LEGISLATION AND WITHOUT PREJUDGING THE OUTCOME OF SUCH A CONFERENCE.

3. SILVEIRA AND HIS ADVISERS QUESTIONED THE FEASIBILITY OF THE US TIMETABLE FOR THE CONFERENCE, POINTING OUT THAT SOME 8-9 OTHER INTERNATIONAL CONFERENCES, IN ADDITION TO THE UNGA, WERE ALREADY SCHEDULED FOR 1978. FURTHERMORE, EXPANSION OF WG MEMBERSHIP AND EXTENSION OF ITS MANDATE WOULD ALSO CONSUME MORE TIME. LEGAL ADVISER INDICATED THAT WHILE WISHING TO MORE AHEAD AS RAPIDLY AS POSSIBLE AND PREFERRING 1978 US COULD PERHAPS ACCEPT SOME FLEXIBILITY ON TIMING.

4. LEGAL ADVISER ACKNOWLEDGED US AND GOB INTEREST IN CONTINUING WORK ON CODE OF CONDUCT FOR TNCS AND ALSO REFERRED TO AFRICAN PROPOSAL ON PROHIBITION OF ROYALTY/TAX PAYMENTS TO MINORITY REGIMES. LEGAL ADVISER SUGGESTED THAT DISCUSSIONS OF THESE TOPICS SHOULD BE PARALLEL BUT SEPARATE FROM ILLICIT

PAYMENTS AGREEMENT. THE BRAZILIANS GENERALLY AGREED.

5. TOWARD THE END OF THE MEETING, AMB. CABRAL DE MELLO, CHIEF OF FOREIGN MINISTRY'S ECONOMIC DEPT., SUGGESTED THAT PROPOSED CONFERENCE SHOULD BE OF A PLENIPOTENTIARY NATURE WITH ALL PARTIES PREPARED TO SIGN A FINAL DOCUMENT. HE THEN REFERRED TO THE PROPOSED CONFERENCE TO FORMULATE AN AGREEMENT ON THE TRANSFER OF TECHNOLOGY, STATING THAT BRAZIL ATTACHES VERY GREAT IMPORTANCE TO THIS SUBJECT AND THAT THIS CONFERENCE MUST ALSO BE PLENIPOTENTIARY. SILVEIRA ADDED THAT BRAZIL WAS PAYING MORE THAN US DOLS 1 BILLION ANNUALLY IN TRANSFER OF TECHNOLOGY
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COSTS, ABOUT HALF OF THE TOTAL PAYMENTS FROM LATIN AMERICAN COUNTRIES.

6. AFTER LUNCH HOSTED BY AMB. CABRAL DE MELLO, LEGAL ADVISER AND EMBOFFS MET WITH AMB. CABRAL DE MELLO AND COUNSELOR ALVARO ALENCAR, CHIEF/ TRADE POLICY DIV. FOR MORE DETAILED DISCUSSION OF US DRAFT PROPOSAL. LEGAL ADVISER UPDATED FONMIN OFFICIALS ON ECOSOC DEVELOPMENTS REPORTED REFS B AND C. ON QUESTION OF CONFERENCE DATE, BRAZILIANS SUGGESTED THAT US RESOLUTION BE REWORDED TO READ "AS SOON AS FEASIBLE BUT NOT LATER THAN 1979" LEGAL ADVISER SUGGESTED "PREFERABLY IN 1978 BUT NO LATER THAN 1979," AS POSSIBLE ALTERNATIVE.

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C O N F I D E N T I A L SECTION 2 OF 2 BRASILIA 5630

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7. ALENCAR REQUESTED CLARIFICATION OF PHRASE
"MEMBER GOVERNMENTS" IN PARAGRAPH 2-D (REF A)
OF US RESOLUTION, ASKING WHETHER IT REFERRED
TO ALL UN COUNTRIES OR JUST ECOSOC MEMBERS.
LEGAL ADVISER PROMISED TO PROVIDE CLARIFICATION.
BRAZILIANS ALSO SUGGESTED THAT PRESENT LANGUAGE
OF PARAGRAPHS 1-A AND 1-B OF US RESOLUTION TENDS
TO PREJUDGE OUTCOME OF CONFERENCE BY PRESENTING
SPECIFIC RECOMMENDATIONS. THEY SUGGESTED THAT THIS
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LANGUAGE BE INCORPORATED IN MODIFIED FORM,
INTO THE PREAMBLE.

8. THE BRAZILIAN SIDE ALSO EXPRESSED A PREFERENCE
FOR A NEW "PREPARATORY GROUP" RATHER THAN SIMPLY
A CONTINUATION AND EXPANSION OF THE EXISTING
WORKING GROUP, WHICH HAD NOT BEEN REPRESENTATIVE.
IN ANY CASE, THE GROUP WHICH WOULD PREPARE CONFERENCE,
WHILE TAKING INTO ACCOUNT OR USING AS A BASIS THE
WORK ALREADY DONE, SHOULD NOT BE RESTRICTED
TO THE EXISTING DRAFT BUT BE FREE TO INTRODUCE AND
EXAMINE NEW IDEAS. THE BRAZILIANS EXPRESSED SKEPTICISM OVER
THE POSSIBILITY OF THE "PREPARATORY GROUP" COMPLETING
A DRAFT AGREEMENT BY MAY 1978.

9. FINALLY, CABRAL DE MELLO REEMPHASIZED THE
FONMIN'S INTEREST IN THE TRANSFER OF TECHNOLOGY
CONFERENCE, INDICATING THAT THE LEVEL OF
BRAZILIAN SUPPORT FOR THE WORK ON ILLICIT

PAYMENTS WOULD BE LINKED TO THE POSITION THE US ADOPTS ON THE FORMER. LEGAL ADVISER LIMITED HIS RESPONSE TO STATING THAT HE WOULD DISCUSS THESE QUESTIONS WITH APPROPRIATE OFFICIALS IN WASHINGTON.

10. COMMENT: EMBASSY WAS PLEASED WITH THE UNEXPECTEDLY POSITIVE AND CONSTRUCTIVE ATTITUDE ADOPTED BY SILVEIRA AND HIS ADVISERS IN THEIR RESPONSE TO LEGAL ADVISER'S PRESENTATION. PART OF THIS MAY STEM FROM RECENT REAFFIRMATION IN WRITING OF THE 1978 MEMORANDUM OF UNDERSTANDING AND DESIRE TO RECOMMENCE CONSULTATIVE PROCESS ON POSITIVE NOTE. ADDITIONALLY, THE GOB MAY BELIEVE THAT OPPOSITION TO EFFORTS
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TO CONTROL ILLICIT PAYMENTS/CORRUPT PRACTICES WOULD BE DAMAGING TO ITS OWN POSTURE AND CREDIBILITY. (AS ACTING IO DEPT. CHIEF, MIN. MARCOS AZAMBUJA TOLD ECON/COMMERCIAL COUNSELOR, CONSTRAINTS ON ILLICIT PAYMENTS WAS COMETHING VERY DIFFICULT TO BE AGAINST.) FINALLY, GOB ALSO APPARENTLY HOPES TO USE ITS SUPPORT ON THIS ISSUE AS A LEVER TO MODIFY WHAT THEY REGARD AS A NEGATIVE US ATTITUDE ON THE TRANSFER OF TECHNOLOGY CONFERENCE.
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Message Attributes

Automatic Decaptioning: X
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Channel Indicators: n/a
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Disposition Approved on Date:
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Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
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Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
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Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Previous Channel Indicators: n/a
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Previous Handling Restrictions: n/a
Reference: 77 STATE 141773, 77 GENEVA 5400
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 17-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1926784
Secure: OPEN
Status: NATIVE
Subject: AGREEMENT ON ILLICIT PAYMENTS: RESULTS OF HANSELL DEMARCHE TO GOB
TAGS: EINV, EGEN, US, BR, XX, ECOSOC, UN
To: STATE GENEVA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/b6e7146f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009